

# Is Sentencing in Victoria Lenient?

## Key Findings of the Victorian Jury Sentencing Study<sup>1</sup>

Following on from the Tasmanian jury sentencing study,<sup>2</sup> researchers conducted a three-stage study on jurors' views of sentencing in Victoria.

### Stage One

Before sentencing, 987 jurors who sat on a County Court trial in Victoria (where the offender was found guilty) were asked about what sentence they would impose on the offender in their case, and the main purpose of that sentence.

### Stage Two

After sentencing, jurors were provided with the judge's sentencing remarks, as well as some information on sentencing law and practice, and asked if they thought the judge's sentence was appropriate (423 responded). They were also surveyed about aggravating and mitigating circumstances.

### Stage Three

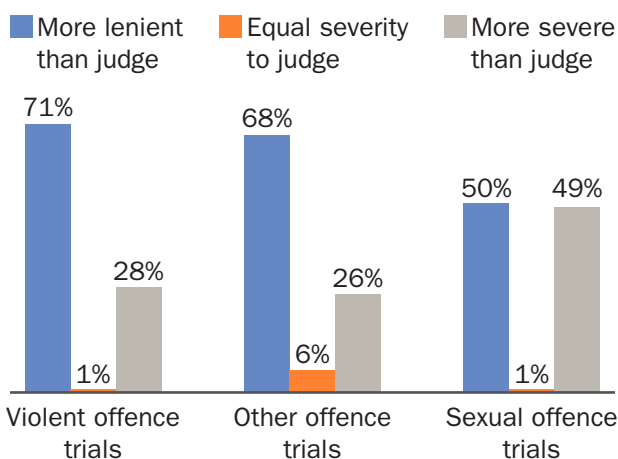
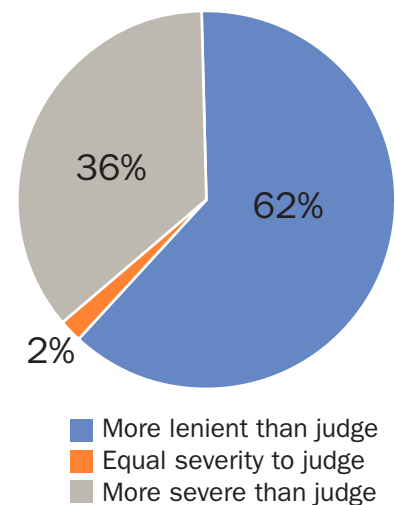
In-depth, follow-up interviews were conducted with 50 jurors. The semi-structured interviews included a discussion of each juror's reasons for selecting the particular sentence, their reaction to the judge's sentence and the selected purpose of their chosen sentence.

## Juror sentences

Overall, 62% of jurors would have imposed a sentence that was **more lenient** than the judge, while 2% would have imposed a sentence of equal severity.

The difference was not minor: overall, jurors imposing a prison sentence were more lenient than the judge by an average of **12 months**.

Jurors (16%) were also more likely than judges (8%) to suggest a **non-custodial** sentence.

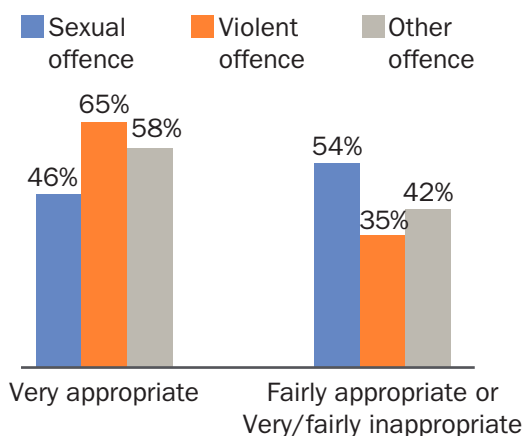
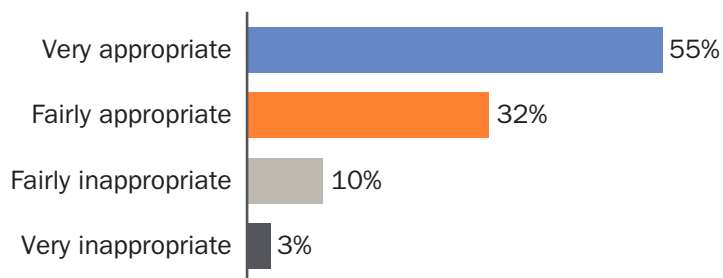


While jurors were more lenient than judges across **all types of offending**, the differences varied.

Sexual offence trials showed the **least agreement** between jurors and judges, with 49% of jurors imposing a more severe sentence than the judge.

## Appropriateness of sentence

After being provided with the judge's sentencing remarks and a booklet of information on sentencing law and practice, the overwhelming majority (87%) of jurors thought the judge's sentence was either 'very appropriate' or 'fairly appropriate'. Only 3% of jurors thought the judge's sentence was 'very inappropriate'.



Jurors' opinions of the appropriateness of the judges' sentences also varied according to offence type.

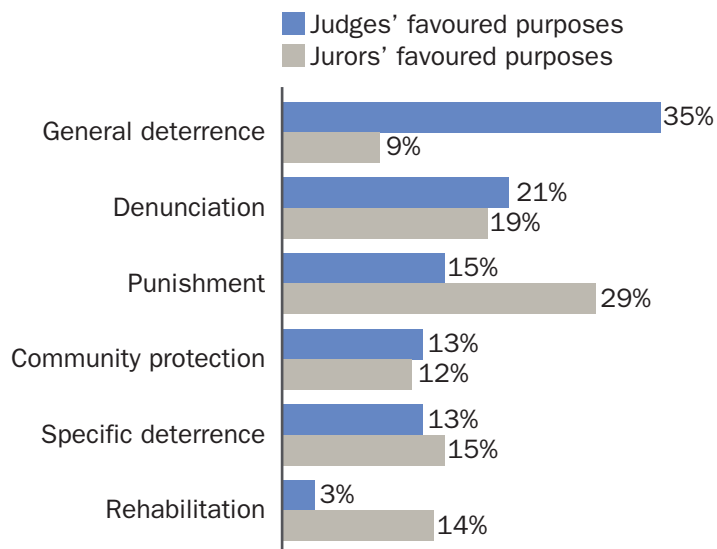
Jurors were **least likely** to consider that the sentence was 'very appropriate' for sexual offences (46%).

## Sentencing purposes

Jurors were asked what they thought was the most important purpose for the sentence, and this was compared with discussion of purposes in the judges' sentencing remarks.

While judges most often prioritised **general deterrence**, jurors favoured **punishment**.

Jurors and judges ranked the purposes of denunciation, community protection and specific deterrence **relatively similarly**.



<sup>1</sup> Data in this fact sheet is drawn from Kate Warner, Julia Davis, Caroline Spiranovic, Helen Cockburn and Arie Freiberg, 'Measuring Juror's Views on Sentencing: Results from the Second Australian Jury Sentencing Study' (2017) 19(2) *Punishment and Society* 180 and Kate Warner, Julia Davis, Caroline Spiranovic and Arie Freiberg, 'Why Sentence? Comparing the Views of Judges, Jurors and the Legislature on the Purposes of Sentencing in Victoria, Australia', *Criminology & Criminal Justice*, Advance access publication 2017 <<http://journals.sagepub.com/doi/abs/10.1177/1748895817738557>>.

<sup>2</sup> Kate Warner, Julia Davis, Maggie Walter, Rebecca Bradfield and Rachel Vermey, *Public Judgement on Sentencing: Final Results from the Tasmanian Jury Sentencing Study*, Trends and Issues in Crime and Criminal Justice no. 407 (2011).